

ORDINANCE NO. 1719

AN ORDINANCE providing for the establishment of a parking and business improvement area within the City of Yakima, Washington, for the purpose of promoting retail trade activities, the acquisition and construction of parking facilities and other improvements, all in accordance with Resolution No. D-3198 of the City of Yakima, Washington, providing that a portion of the costs of said improvements shall be paid by special assessments on all businesses located within said area, and creating a Parking and Business Improvement Area Fund.

WHEREAS, the City Council of the City of Yakima, Washington, on October 21, 1974, adopted Resolution No. D-3198 entitled: "A RESOLUTION of the Council of the City of Yakima, Washington, declaring the intention of the City Council to improve the downtown area of the City by the construction and installation of off-street parking facilities, improvements to pedestrian spaces, and general improvements to such area, declaring the intention of the City Council to create a parking and business improvement area, and fixing a time, date and place for a hearing on this resolution of intention;" and

WHEREAS, notice of said hearing was duly given by publication and mailing of complete copies of said Resolution in the manner required by law;

WHEREAS, the hearing on said Resolution was held on November 12, 1974, at the City Hall, Yakima, Washington at 3:00 p.m., as provided in said notice, and all persons interested therein did appear and were heard either for or against the creation of said proposed parking and business improvement area and, after discussion of the proposed improvements and due consideration of the statements of all persons for or against the proposed improvements and the formation of a parking and business improvement area, the City Council determined to order the establishment of a parking

and business improvement area, hereinafter more particularly described, to provide for the financing of parking and other improvements within such area;

NOW, THEREFORE, the City Council of the City of Yakima does ordain as follows:

Section 1. The City of Yakima shall, pursuant to RCW 35.87A, promote retail trade activities within the Parking and Business Improvement Area hereinafter formed, and, in furtherance of such purpose, shall acquire, construct and install parking facilities and shall decorate public places, within the area of the city described in Exhibit A, attached hereto and incorporated by reference herein, all as set forth in preliminary plans therefor, prepared by N. G. Jacobson and Associates, dated September, 1974, and now on file with the city. Said parking facilities and other improvements shall be complete with all necessary appurtenances and facilities and the city shall acquire such lands, buildings, and interests therein as shall be necessary.

It shall be a part of the plan for such parking facilities, that the city may in the future construct buildings for public use, including use as a convention center, in the air space above the parking lot designated Parking Lot 2 in such preliminary plans, so long as the capacity of such lot for parking is not thereby substantially diminished or equivalent parking is provided in the immediate area.

The city shall expend the sum of \$10,000, derived from the assessments provided for herein, for the purpose of promoting retail trade activities within such area through a public education program.

Section 2. There is hereby established a parking and business improvement area within the City to be known as "Parking

and Business Improvement Area No. 1" (hereinafter called the "Area"), which said area shall embrace all of the land, and the businesses included therein, described in Exhibit A, attached hereto and incorporated by reference herein, all of which land is situated within the City of Yakima, Washington.

Section 3. There is hereby created in the office of the City Treasurer a fund to be known as "Parking and Business Improvement Area Fund No. 1" into which all proceeds of such assessments shall be paid.

Section 4. All businesses now or hereafter located within the Area shall be subject to the assessments authorized by this ordinance and RCW 35.87A.010.

Section 5. By reason of the off-street parking improvements and other improvements to be constructed in proximity to the businesses within the Area, and by reason of the general promotion of retail trade activities to take place, it is determined that special benefits will be conferred on all businesses within the Area. The special assessment amounts to be levied pursuant to this ordinance on the various classes of such businesses are hereby found and determined to be assessed in accordance with the special benefits derived from such improvements, giving due regard to the proximity of the businesses to the parking facilities, the types of businesses, the territorial extent of the Area, the assessed value of the Area, total business volume within the Area and each business therein and the needs of the Area and the businesses within the Area for parking facilities.

Section 6. The initial rate of levy of special assessments to be imposed is as follows:

<u>No. of Employees</u>	<u>Business Classification</u>	<u>Initial Annual Assessment Rate Per Employee</u>
1 - 5	Retail	\$20.00
6 and over	Retail	\$40.00
1 - 5	Service	\$10.00
6 and over	Service	\$20.00

An "employee" is defined as any person or combination of persons whose total working hours equal 40 hours per week, i.e., total hours worked by all personnel (including management) in 1973 divided by 52 weeks (average working hours per week) and divided by 40 hours equals average number of employees. Fractions of employees .5 or greater will be rounded up to the next whole number.

A "retail business" is defined as any business the principal function of which is to sell goods to the ultimate consumer and not for resale.

A "service business" is defined as any business other than a retail business including, but not limited to, businesses whose principal function is to perform work for, or provide assistance or information to others.

The City Manager may determine that an individual business enterprise engages in both retail and service businesses. In the event of such a determination, the employees of such businesses shall be classified by the City Manager according to whether they are primarily engaged in a retail or service business and the above assessment rates applied to such business enterprise accordingly.

The assessments provided for herein shall be payable quarterly on the 1st day of January, April, July and October of each year, with the first quarterly amount to become due on July 1, 1975. Billings for such assessments shall be made to each business within the area at least ten days preceding each due date.

All such assessments shall be used for the purposes specified in Sections 1 and 11 of this ordinance.

Section 7. An assessment roll shall be prepared quarterly by the Director of Finance of the City and filed with the City Clerk 15 days prior to commencement of each quarter so long as any bonds issued to pay any part of the cost of the improvements set forth in Section 1 above remain unpaid. Such roll shall reflect the additions or removals of businesses within the Area which have occurred since the preparation of the preceding assessment roll.

Section 8. In the event that any changes are to be considered by the City Council in the rate or formula of assessments, the City Council shall by resolution stating its intention to change such rate or formula fix a date for hearing on such change. The Director of Finance shall prepare a preliminary assessment roll incorporating such change. The City Clerk is hereby authorized and directed to give notice of such hearing within the time and in the manner hereinafter specified, to each business within the Area, which notice shall specify the date, time and place of such hearing and the amount of the revised assessment applicable to each such business. In addition, said notice shall contain the following information:

- (a) That any and all objections to said preliminary assessment roll shall be made in writing and filed with the City Clerk on or prior to the day fixed for hearing, but in any event prior to the time fixed for such hearing.
- (b) That at such time and place fixed for the hearing, or at such other time or times to which the hearing may be adjourned, the Council will sit as a board of equalization for the purpose of considering the preliminary assessment roll.
- (c) That at said hearing, the Council will consider any and all objections made and may correct, revise, raise, lower, change or modify the preliminary assessment roll or any part thereof or set aside such roll and order the assessment to be made de novo, and at the conclusion of such hearing, confirm the roll by ordinance.

Not less than fifteen (15) days before the date fixed for the hearing, notices thereof, as set forth above, shall be mailed to the owner or reputed owner of all businesses whose names appear on the preliminary assessment roll at the addresses shown on the business license record of the City of Yakima for the current calendar year. In addition, such notice shall be published in the official newspaper of the City once each week, for two (2) successive weeks, the last publication to be at least five (5) days prior to the date fixed for the hearing.

All objections to the confirmation of the assessment roll shall state clearly the grounds of objection, and any objections not made within the time and manner prescribed in this ordinance shall be conclusively presumed to have been waived.

The purpose of such hearing shall be to consider any and all objections filed with regard to such preliminary ,assessment roll. Following the hearing thereon, the council may adopt, reduce, modify or reject the preliminary assessment roll, and thereupon shall direct that an ordinance be prepared which shall embody the action of the council and which ordinance shall constitute the confirmation of the final assessment roll.

Section 9. The regularity, validity and correctness of the proceedings relating to the improvements, the formation of the Area, and to the assessment levied under this ordinance, or under any future ordinance confirming a revised assessment roll including all action of the City Council upon any such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties. Such action cannot, in any manner, be contested or questioned in any proceedings by any person unless such person files written objection to the assessment roll in the manner, and within the time required by this ordinance, and unless such person prosecutes an appeal in the manner and within

the time required by the provisions of this ordinance. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any assessment except that injunction proceedings may be brought to prevent the enforcement of an assessment against any business on the ground that the business does not appear upon the assessment roll or that the assessment has been paid. Protests filed pursuant to RCW 35.87A.060 against the formation of the Area, the fixing of the initial assessment roll, or the confirmation of any changed assessment roll must be filed with the City Clerk within 30 days from the date of adoption of the ordinance taking the action challenged.

Section 10. The decision of the council upon any objections made in the manner and within the time herein prescribed shall (subject to the provisions of RCW 35.87A.060) be final and conclusive subject, however, to review by the Superior Court for Yakima County upon appeal. Any action for such review shall be served upon the City and filed with the Clerk of the Superior Court of Yakima County within ten (10) days after the ordinance confirming any annual preliminary assessment roll becomes effective.

Section 11. If the City Council of the City of Yakima shall deem it advisable, revenue bonds or general obligation bonds, shall be issued to provide funds for the payment of part or all of the cost of the improvements specified in Section 1 hereof. The principal of and interest on such bonds may be paid, in whole or in part, out of the special assessments to be levied and assessed upon the businesses within the Area, as aforesaid, in accordance with this ordinance and other ordinances of the City of Yakima.

The rate of interest to be borne by said bonds, the form, denominations and maturities shall be as fixed by resolution

or ordinance of the City Council of said city except as may be provided by state law.

Section 12. If any provision of this ordinance, or its application to any person or circumstances be held invalid, the remainder of the ordinance, or the application of the provisions to other persons or circumstances shall not be affected.

Section 13. This ordinance shall be in full force and effect 30 days from and after the date of its passage, approval and publication, as provided by law.

PASSED BY THE CITY COUNCIL, signed and approved this 12th day of November, 1974.

Rest Broad
Mayor

ATTEST:

Iris Litzberger
City Clerk

APPROVED AS TO FORM:

Fred H. Andrew
City Attorney

Published: Nov. 15, 1974

EXHIBIT A

Beginning at the intersection of the centerline of South First Street and the centerline of East Walnut Street, thence northerly along the centerline of First Street to the centerline of the east-west alley in Block 10, The Town of North Yakima (now Yakima) recorded in Volume "E" of plats, page 1, records of Yakima County, Washington; thence westerly along the centerline of said alley to the centerline of the north-south alley in said Block 10, thence northerly along said centerline to the centerline of East "A" Street; thence easterly along the centerline of "A" Street to the centerline of North First Street; thence northerly along the centerline of First Street to the centerline of East "B" Street; thence easterly along the centerline of "B" Street to the centerline of North Naches Avenue; thence southerly along the centerline of Naches Avenue to the centerline of East Walnut Street; thence westerly along the centerline of Walnut Street to the centerline of South First Street, the point of beginning.